



## **PLANNING COMMISSION SYNOPSIS**

**Wednesday, December 7, 2005**

6:30 p.m. Regular Meeting  
**Council Chambers, City Hall**

200 East Santa Clara Street  
San Jose, California

**Bob Dhillon, Chair**  
**Xavier Campos, Vice-Chair**

**Bob Levy    Jay James**  
**Dang T. Pham**  
**Christopher Platten    James Zito**

**Stephen M. Haase, Director**  
**Planning, Building and Code Enforcement**

## NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

## NOTICE TO THE PUBLIC

Good evening, my name is **Bob Dhillon** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of ***Wednesday, December 7, 2005***. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers.

If you want to address the Commission, **fill out a speaker card (located on the table by the door or at the technician's station), and give the completed card to the technician. Please include the agenda item number for reference.**

The procedure for this hearing is as follows:

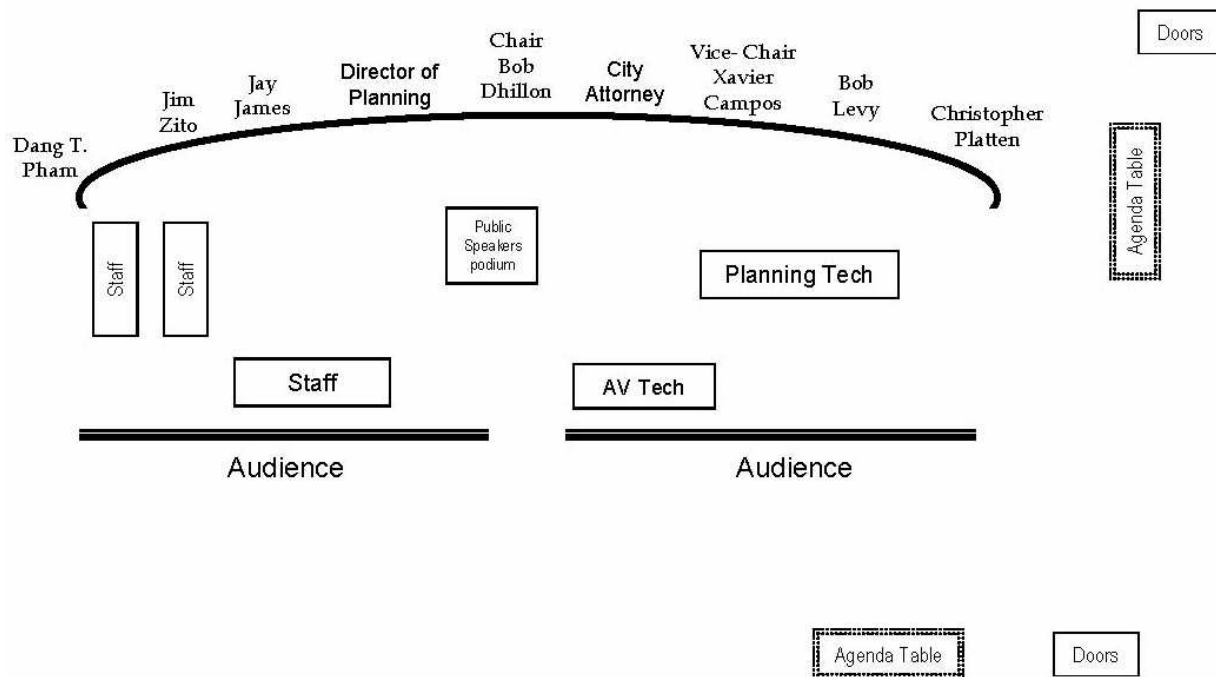
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

**If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.**

**The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items.** Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

**Note:** If you have any agenda questions, please contact Olga Guzman at [olga.guzman@sanjoseca.gov](mailto:olga.guzman@sanjoseca.gov)

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose Planning Commission generally meets every 2<sup>nd</sup> and 4<sup>th</sup> Wednesday at 6:30 p.m., unless otherwise noted. The remaining meeting schedule is attached to this agenda and the annual schedule is posted on the web at <http://www.sanjoseca.gov/planning/hearings/index.htm> Staff reports, etc. are also available on-line. If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**AGENDA**  
**ORDER OF BUSINESS**

**1. ROLL CALL**

**2. DEFERRALS**

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items, you should say so at this time.

- a. **PDC05-002**. Planned Development Rezoning request from the R-M Multiple Residence District to the A (PD) Planned Development Zoning District to allow the demolition of an existing single-family residence and the construction of three single-family detached residential units on a 0.33 gross acre site, located on the southwesterly corner of State and Essex Streets (1391 STATE ST) (Martina Victor J, Owner). Council District 4. SNI: None. CEQA: Exempt.

**DEFERRED TO 1-11-06 (6-0-1; PHAM ABSENT)**

- b. The projects being considered are located on west side of Morrill Avenue, 550 feet southerly of Landess Avenue (TARGET) (2155 MORRILL AV) in the CG-General Commercial Zoning District (Cheng Betty L Trustee, Owner). Council District 4. SNI: None. CEQA: Exempt. Continued from 9-28-05.

1. **CP05-033**. Conditional Use Permit request to allow off-sale of alcoholic beverages at an existing retail commercial building on a 9.02 gross acre site.

**DEFERRED TO 1-25-06 (6-0-1; PHAM ABSENT)**

2. **ABC05-003**. Liquor License Exception permit to allow off-sale of alcoholic beverages at an existing retail commercial building on a 9.02 gross acre site.

**DEFERRED TO 1-25-06 (6-0-1; PHAM ABSENT)**

- c. **CP05-060**. Wireless - Conditional Use Permit to allow wireless communications antennas mounted atop an existing church building within an enclosure approximately 15 feet in height on a 5.2 gross acre site in the A Agricultural Zoning District, located at/on south side of Camden Avenue, approximately 400 feet westerly of Forest Drive (6601 CAMDEN AV) (South Hills Community Church Bryce Carroll, Owner; Cingular Wireless, Developer). Council District 10. SNI: None. CEQA: Exempt.

**DROPPED (6-0-1; PHAM ABSENT)**

- d. [UGB05-001](#): Director's Determination regarding the Proposed modification of the Greenline/Urban Growth Boundary for property located generally at the northeasterly quadrant of the intersection of Piercy Road and Tennant Avenue (715 Piercy Road) on a southerly 8.3-acre portion of a 14.3-acre parcel. (Terrimac Incorporated, et. al., Owners/Aegis Land Company/CO Richard Denman, Applicant). Council District: 2. SNI: None.

**DROPPED (6-0-1; PHAM ABSENT)**

### **3. CONSENT CALENDAR**

#### **NOTICE TO THE PUBLIC**

**The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately. If anyone in the audience wishes to speak on one of these items, please come to the podium at this time.**

- a. The projects being considered are located on the South side of Fleming Avenue, approximately 1,032 feet southeast of Alum Rock Avenue (139 and 145 FLEMING AV) (San Jose The Lord's Baptist Church, Parmar Inderjit S and Kathy L, Owners) Council District 5. SNI: None. CEQA: Mitigated Negative Declaration.
1. [PDC05-061](#). Planned Development Rezoning from Unincorporated County to the A(PD) Planned Development District to allow 18 single-family detached residences on a 2.66 gross acres site.

**DEFERRED TO 1-11-06 (6-0-1; PHAM ABSENT)**

2. [C05-079](#). STAFF INITIATED Rezoning from County to R-1-5 Residence Zoning District to allow single-family detached residential use on a 0.22 gross acre site.

**DEFERRED TO 1-11-06 (6-0-1; PHAM ABSENT)**

- b. [PDC05-081](#). Planned Development Rezoning from the RM-Multiple Residence Zoning District to A(PD) Planned Development Zoning District to allow up to two single-family detached residences and two single-family attached residences on 0.25 gross acre site located on the west side of South Cypress Avenue approximately 400 feet south of Stevens Creek Boulevard. (341 South Cypress Avenue) (Logan Randall J., Trustee & Et Al, Owner). Council District 1. SNI: None. CEQA: Exempt.

**RECOMMENDED APPROVAL (6-0-1; PHAM ABSENT)**

- c. [CP05-062](#). Conditional Use Permit request to allow Church/ Religious Assembly uses with up to 400 seats within an existing industrial building and an Alternating Use Parking Arrangement on a 2.09 gross acre site in the IP-Industrial Park Zoning District, located on the northwesterly corner of Martinvale Lane and Via Del Oro (145 MARTINVALE LN) (Boyer Ronald G Trustee & Et Al, Owner). Council District 2. SNI: None. CEQA: Edenvale Redevelopment Expansion Area EIR Resolution No. 70021, File No. CP05-062.

**APPROVED (6-0-1; PHAM ABSENT)**

*Pulled from consent by Commissioner Zito. Commissioner James asked whether bus parking would remain on site and applicant responded that the new church would not use bus. Commissioner Zito asked for clarification on 5-year time limit given concern by area businesses, and staff confirmed time limit.*

- d. [PDC04-066](#). Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow gas station and car wash uses on a 0.78 gross acre site, located at the northeast corner of Monterey Road and Tully Road (2180 Monterey Road) (Equilon Enterprises LLC, Owner; Vintners Distributors, Inc., Developer). Council District 7. SNI: None. CEQA: Addendum to Mitigated Negative Declaration for File No. PDC86-018.

**RECOMMENDED APPROVAL (6-0-1; PHAM ABSENT)**

The following items are considered individually.

**4. PUBLIC HEARINGS**

- a. [An Ordinance amending Chapter 19.16 of Title 19, the subdivision code, and adding Chapter 20.175 to Title 20](#) of the San Jose Municipal Code, the Zoning Ordinance, to create a permit process for the review of commercial and industrial condominium projects. CEQA: Exempt, PP05-219.

**RECOMMENDED APPROVAL (6-0-1; PHAM ABSENT)**

*Commissioner Zito asked for clarification on existing processes. Staff clarified this as a new process for ensuring long-term maintenance in commercial/industrial condominiums. Staff further explained that discretion over sizes of condominium spaces is appropriate so that units are not created that would be too small for industrial uses. Commissioner James commended staff on bringing ordinance forward.*

*Commissioner Levy asked whether CC & R's should be required as a "finding" in the Special Use Permit approval. Staff explained portions of proposed ordinance that include that requirement for CC & R's or their equivalent. Chair Dhillon commended staff and noted condo conversion could negatively affect industrial areas, if not carefully monitored.*

- b. [PDC05-076](#). Planned Development Rezoning from the LI-Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 80 single-family detached residential units on a 5.65 gross acres site, located on the northwesterly side of Lewis Road approximately 210 feet southwesterly of Garden Avenue (265 Lewis Road) (Alfred A. & Carolyn Ferrari Trustee, et al., Owners). Council District 7. SNI: None. CEQA: Mitigated Negative Declaration.

**RECOMMENDED APPROVAL (6-0-1; PHAM ABSENT)**

*Commissioner Levy noted current interface between residential and industrial is unsightly, and project will be improvement, and recommended staff continue to work at the PD permit*

*stage to increase setback for new residential from the industrial.*

- c. **TR05-042.** APPEAL of the Planning Director's decision to deny a Tree Removal Permit to remove one Redwood tree / 131" in circumference on a 0.24 gross acre site in the R-1-8 Single-Family Residence Zoning District, located at/on the east side of Cottle Avenue, approximately 60 feet southerly of Glenwood Avenue (1580 Cottle Avenue). (Michael Vaggione, Owner). Council District 6. SNI: None. CEQA: Exempt.

**UPHELD DIRECTOR'S DECISION TO DENY (6-0-1; PHAM ABSENT)**

*Staff noted the City Arborist was in attendance and available for questions. Commissioner Zito asked whether applicant had been aware of history of the tree when he purchased the property and he acknowledged he had been, but that he felt he was at a new starting point. Commissioner James asked for clarification on prior location of driveway and basement which had previously impacted ability of redwood tree roots to grow in all directions. Commissioner James asked for clarification on PG&E direction on how utilities could be undergrounded, and for the size of the canopy of the tree which covers most of the front yard. Commissioner Levy asked whether health of first cedar was in jeopardy and applicant explained that he is willing to care for the cedar trees and they are salvageable.*

*A neighborhood resident commended the placement of the new house which fully accommodates the redwood tree and noted the tree is not visible from the porch under construction. In response to Commissioner Levy, the speaker explained history of site which had a "too crowded" forest until recently, and that now remaining cedars will improve with new growth. A second speaker noted 3 arborists have evaluated health of redwood and none have stated that the tree is dangerous or diseased, and none have recommended removal, and further that the sale price of the lot had been significantly reduced due to situation with trees.*

*Harvey Darnell, Willow Glen Neighborhood Association, spoke to the issue that the Association desires to preserve the area's significant trees and that if the permit is approved, significant mitigation trees should be planted in the area.*

*The applicant noted that staff had indicated if house proposal had been designed to be oriented more to the front of the lot, tree removal findings could potentially have been made in that a typical single-family house front setback is only 25 feet.*

*Commissioner Zito asked if applicant intended to live in home and applicant indicated he does not, and stated several 24" and 36" box trees might be appropriate mitigation if redwood tree allowed to be removed. Commissioner James asked for clarification about whether arborist recommendation to thin the tree would be implemented, and applicant stated a tree professional would be used to thin tree and to maintain attractiveness.*

*Commissioner Levy asked why new house had just been built next door if redwood tree was a threat to house. Applicant responded that neighbor had believed when plans for house on subject site were completed, tree would come out. In response to Commissioner Levy, applicant indicated that PG&E would put in power lines which would either kill cedars, or kill redwood.*

*Ralph Mize, City Arborist, in response to Commissioner Levy, clarified his assessment that tree lean was mostly early growth and many trees lean due to prevailing winds, and that new growth is vertical and there appears no significant problem of falling over. The arborist suggested that utilities might be aligned on the south side of driveway and pass through the*



*area that previously was a basement where there should be few roots. The arborist commented there is a low potential for tree to fall.*

*The arborist, in response to Commissioner James, clarified that the top of the crown shouldn't be thinned too dramatically, and stated tree was in good structural condition and healthy.*

*Staff clarified that tree issue has been ongoing and that staff did not ever state it would be appropriate to remove all trees, and that once house was voluntarily set back it was not possible to make findings for removal of the tree.*

*Commissioner Platten moved to uphold Director's decision to deny the tree removal permit. Commissioner Zito asked whether either overhead lines or undergrounding could occur and staff noted utility undergrounding not required for single-family houses. Staff clarified in response to Commissioner Zito, that while other trees of this size had been removed elsewhere in the city, in this instance, there was strong community interest and that since house had been voluntarily relocated to accommodate tree, findings could not be made that development was restricted.*

- d. **PDC05-034**. Planned Development Rezoning from CP District to A(PD) District to allow 32 single-family attached residences on a 1.102 gross acre site, located on the west side of Skylark Drive, at the western terminus of Hummingbird Drive (2482 ALMADEN EX) (Ledeit Raymond A And Linda Trustee & Et Al, Owner). Council District 6. SNI: None. CEQA: Negative Declaration. Deferred from 11-16-05.

**NO RECOMMENDATION (3-3-1; ZITO, LEVY AND CAMPOS IN SUPPORT OF A MOTION TO DENY, PLATTEN, DHILLON AND JAMES OPPOSED, AND PHAM ABSENT)**

*Staff clarified that FEMA had indicated property had been removed from flood zone, and that C3 requirements were being met for stormwater treatment. Commissioner Zito asked how property could be proposed for residential when designated in General Plan for Commercial. Staff clarified use of General Plan two-acre rule that allows development of sites for other land use if compatible with surrounding neighborhood.*

*Commissioner Levy asked for the applicant to indicate where common open space is located. Architect indicated project is podium design and open areas on podium were common open space including paseos and landscaping. Commissioner Dhillon asked what percentage of site is taken up by podium and what landscape edge remained in setbacks. Applicant clarified amount of open space on podium and details of elevation from Skylark Drive. In response to Commissioner Dhillon, the architect noted the landscape plan showed plantings, but in response to Commissioner Levy commented no additional amenities were proposed since this is not an apartment project. The architect responded that the developer could work with staff at PD permit stage to provide amenities and benches.*

*Commissioner James asked if median strip in Almaden was proposed to be removed as drawings did not show it and applicant stated it was proposed to remain and was an oversight not to be indicated on plans.*

*An area resident expressed concern about the exit onto Almaden, that density is very high compared to neighborhood and that 40-foot height is very different than typical 20-foot house in neighborhood, particularly those across Skylark.*

*Harvey Darnell from Willow Glen Neighborhood Association indicated particular concern regarding interface of project with single-family houses across the street. The applicant*



*highlighted that homes on Skylark were built at grade to be closer to height across the street, and taller portions of project were oriented away from neighborhood toward Almaden, and he clarified that as site is currently a commercial site, future automobile trips would be fewer in number.*

*Commissioner Campos commented that although there was a requirement for exceptional design for use of General Plan 2-acre rule, the façade to the street didn't seem very well articulated. The architect spoke to clarify that 3 different color palettes would be used and project would not be monolithic since upper stories step back from street. Commissioner Campos stressed that staff should work hard with applicant to ensure good design.*

*Commissioner James asked whether applicant had considered reducing height to 2-story along Skylark. Applicant noted that to reduce height would require reducing density and number of bedrooms in each unit, and that some "pop-ups" on adjacent apartment building were same height being proposed. Staff clarified that setting third story back from street would mitigate impact to single-family neighborhood and staff would work at PD permit stage for open space amenities. Commissioner Zito suggested a few units could be removed to allow wider units on Skylark, and asked where density recommendation had occurred and stated he agreed with Commissioner Campos that architecture not exceptional. Staff responded that balancing applicant project needs with neighborhood resulted in project.*

*Commissioner Zito moved to recommend denial of the project. Commissioner Levy stated this project did not meet the bar, and was too cluttered, not good interface, and walkways as common open space represent only the bare minimum with no amenities, and stated applicant should revise project to increase open space.*

*Commissioner James asked whether loft on third floor could be eliminated along Skylark which would reduce height and wouldn't decrease density. Commissioner James asked for clarification regarding flooding, and Public Works staff noted no requirements if FEMA indicates not in flood zone, and commented site is above flood height, and stated streets designed to provide flood channeling.*

*Commissioner Platten stated that this is a problematic parcel of land which this project addresses nicely, and that interface along Skylark sufficiently designed to be compatible with neighborhood and that design analysis by staff was adequate. Commissioner Dhillon stated he was opposed to motion, stating he felt staff could continue to work with applicant on issues. Commissioner Campos commented City shouldn't have to settle for mediocre projects and stated he would want assurance from applicant that project would be modified to be improved.*

*Commissioner Zito stated he felt this project is disappointing for a high-density project and that recommending approval with conditions not as strong a statement as recommending denial. Applicant commented he would be willing to work with staff.*

*Commissioners' vote on the motion resulted in No recommendation. Commissioners Levy, Campos and Zito for motion to deny, while Commissioners Platten, Dhillon and James were opposed to motion to deny, with Commissioner Pham absent. Counsel confirmed that result of 3-3-1 vote is no recommendation.*

*Commissioner James restated reasons for Commission action that the project needs:*

- 1. more common open space*
- 2. amenities for residents*
- 3. better interface with houses across Skylark*

*Commissioner Platten also noted Commissioner's opinions that proposed architecture along Skylark is unattractive and needs improvement to be considered exceptional design.*

- e. The projects being considered are located on the east side of Lincoln Avenue, approximately 450 feet southerly of Willow Street (WineStyles) (1140 Lincoln Avenue) in the Commercial Pedestrian Zoning District in the Willow Glen Neighborhood Business District. (Paja Investments, Owner). Council District 6. SNI: None. CEQA: Exempt.

1. **CP05-054**. Conditional Use Permit request to allow a retail wine shop that includes a public drinking establishment (wine tasting) and the sale of alcoholic beverages for off-site consumption at an existing retail store on a .98 gross acre site.

**APPROVED (6-0-1; PHAM ABSENT)**

*The applicant clarified nature of proposed use.*

*Two area residents expressed concern about possible intoxicated drivers and stated they believed there are too many establishments that sell liquor in area. In response to Commissioner Zito, one resident clarified he knows area liquor store owner. Harvey Darnell from Willow Glen Neighborhood Association stated he had attended community meeting and majority were in support, and that this is good business model and acknowledged number of alcohol-serving facilities in area and that WGNA had other times opposed new uses, but believed this one would be different.*

*Owner of adjacent retail space stated this would be good use for building, and that interior design was very nice and would not result in sales of beer, hard liquor or rowdy crowd.*

*Other area residents and business owners commended applicant's investment in area which would help enhance citywide awareness of business district.*

*Ed Rast stated support from the Business Association for this project, noting he had been opposed to alcohol sales in mini-mart environments, but that this operation would be an asset to business district.*

*The applicant stated that wine tasting is in one-ounce pours, and that this would not be likely a place people would come to be intoxicated. In response to Commissioner James, the applicant explained protest of ABC license explaining that the ABC had resolved protest and awaited results of Commission action to move forward with license.*

*Commissioner James asked for clarification on wine shop staff training, and applicant explained staff would be trained in how to handle intoxicated patrons, and would "card" patrons who would taste wine. Commissioner Dhillon clarified that ABC holds its own hearing on the protest.*

*Staff clarified that this use would be the third store in a 1000-foot area, park is outside 1000' radius, that parking has been identified, that ABC action was to approve license, and that permit was conditioned that applicant maintain police contact.*

2. **ABC05-006**. Liquor License Exception permit request to allow off-sale of alcoholic beverages at an existing retail commercial building on a .98 gross acre site.

**APPROVED (6-0-1; PHAM ABSENT)**

- f. [SF05-026](#). APPEAL of the Planning Director's decision to approve a Single Family House Permit to demolish an existing single family house and build a 3355 square foot house with a detached garage in the R-1-8 Single-Family Residence Zoning District, located at/on the east side of Glenn Avenue approximately 200 feet north of Britton Avenue (1174 Glenn Ave) (Bauer Michael and Hoailinh, Owner). Council District 6. SNI: None. CEQA: Exempt.

**DEFERRED TO 1-11-06 (6-0-1; PHAM ABSENT)**

*Appellants commented that deck size, privacy concerns and style and massing of house are primary concerns, and recommended reducing size of deck, moving garage out from property line 3 feet and reducing height of garage.*

*Applicant responded that massing of the second floor was reduced by setting it back, that hip roof would limit profile and allow less sun restriction, that deck had been set back 10 feet from side property lines, that patio room had been made more open, that house could have been 20' closer to rear property line and that only access is from master bedroom. The applicant further noted viewpoint out master bedroom is at midpoint in lot, and the applicant indicated willingness to plant trees between 12-17 feet tall at rear property line.*

*Residents of the neighborhood expressed concern over the size and height of the proposed house, regarding the design of the house and its compatibility with the surrounding homes,*

*Applicant clarified that proposal for the house above 0.45 FAR was not a variance, but does trigger a review process for design, and that while the current home is quaint, it doesn't have the amenities. Applicant commented that the addition of less than 400 square feet resulted in 0.51 FAR- over the 0.45 FAR review trigger.*

*Commissioner Zito stated appellant's recommendation seemed reasonable and asked applicant's opinion. Applicant noted that it would be possible to reduce size of the house and second floor deck but since the deck is set back 44 feet from rear property line, that had been an element in Director's decision to approve and that a solid railing could be used, or plantings to ultimately provide screening of second floor terrace.*

*Commissioner Campos indicated that forty- four feet was possibly not enough distance to mitigate privacy concerns. The applicant commented that half of the rear property sight line would be blocked by garage and that they had offered to plant trees along remaining rear property line even before construction begins so that growing can begin. In response to Commissioner Campos, the applicant described other area houses that are larger.*

*Commissioner James asked for clarification regarding location of the garage on the lot line and how the applicant would address maintenance of the sides of the garage in the future, and the applicant commented a professional would be hired. Commissioner James commented quality of life would be affected on adjoining property, and trees on the property would screen the neighbors' pool, and that more accommodation in reducing the size of the deck should be made, and that forty-four feet seemed close upon actual site visit.*

*Applicant noted that deck could have been designed closer to property line, and that trellises could be used to screen deck and trees could be used planted along property line, but could screen gardens and yards next door.*

*Commissioner Levy expressed concern over relative size of house and other living spaces,*

*and Commissioner Dhillon asked for clarification about covered areas versus garages.*

*Deputy Director Horwedel clarified Residential Design Guidelines don't apply to lots over 6,000 sq ft, but Single Family House Guidelines do, and provided history of process, noting no provisions for solar access or privacy rights, and staff balances issues.*

*Commissioner Levy asked why basements aren't included and staff indicated it is not visible space and shouldn't count, like garages. Staff also clarified the fact that covered porches less than 50% percent enclosed are not included in the floor area ratio.*

*First appellant indicated trees on the property line could screen solar pool heater. In response to Commissioner James, appellant stated he'd lived in area 31 years and knew of no other house designed in a similar way, but that wrought iron and stucco were found in neighborhood.*

*The second appellant stated size of deck is biggest concern, but location of garage is also an issue, and noted existing garage is not on property line, and asked for direction for conditions of approval to respond to concerns.*

*Staff stated that garage does not need discretionary approval and cannot be conditioned through this permit, and that decks could be built with a house at an FAR of 0.45. Commissioner Dhillon again asked for clarification regarding covered spaces and when they would be treated as living space.*

*Commissioner Zito commented he did not see reasons that compelled the Commission not to uphold the Director's decision to approve, although he agreed with the appellant that deck should be reduced in size and the garage should be moved from property line and then moved to uphold the Director's Decision.*

*Commissioner Levy offered an amendment and proposed the applicant's proposed deck design be modified to limit deck to 250 square feet.*

*Commissioner Platten commented there should be less intrusive alternative to design of balcony.*

*Counsel explained this ordinance for single-family review does not speak to privacy, and that the Commission's recommendation should respond to the compatibility of a house with a second floor terrace in area with no other decks.*

*Commissioner James said that intention on garage placement should require working between neighbors to determine whether garage should be located on property line, and also clarified redesign should be to 200 square feet within trellis designs of balcony.*

*Deputy Director Horwedel stated the Commission seemed willing to approve house with smaller deck and that applicant should work with neighbors to return with compromise and that could involve garage.*

*Commissioner Platten indicated that was exactly the right idea, and Commission recommended deferral to January.*

**5. PETITIONS AND COMMUNICATIONS**

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
  1. Responding to statements made or questions posed by members of the public; or
  2. Requesting staff to report back on a matter at a subsequent meeting; or
  3. Directing staff to place the item on a future agenda.

*None*

**6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

- a. Parks Commission referral of Proposed Changes to the PDO and PIO, and Proposed Fee Increases

*Work with Parks Staff on joint resolution*

**7. GOOD AND WELFARE**

- a. Report from City Council

*None*

- b. Commissioners' reports from Committees:

- Norman Y. Mineta San Jose International Airport Noise Advisory Committee (James).

*Commissioner James received 3<sup>rd</sup> quarter monitoring reports, and complaints were received about airport programs*

- Coyote Valley Specific Plan (Platten)

*No meeting since last meeting, and no meeting scheduled*

- Evergreen East Hills Vision Strategy Task Force (Levy)

*No meeting since last Planning Commission meeting, and no meeting scheduled*

- c. Review of synopsis

*No comments*

- d. Adopt 2006 Planning Commission Meeting Schedule

**APPROVED (6-0-1; PHAM ABSENT)**

**8. ADJOURNMENT**

## 2005 PLANNING COMMISSION MEETING SCHEDULE

January 12	5:00 p.m. - 6:00 p.m.	<i>Study Session</i>	Room 400
		<i>Discussion of Meeting Logistics</i>	
January 12	6:00 p.m.	Regular Meeting	Council Chambers
January 26	6:00 p.m.	Regular Meeting	Council Chambers
Monday, February 7	4:45 p.m.	<i>Study Session</i>	Room 400
		<i>Discussion of Jobs/Housing Imbalance</i>	
Monday, February 7	6:00 p.m.	Regular Meeting	Council Chambers
February 23	6:00 p.m.	Regular Meeting	Council Chambers
March 9	4:45 p.m.	<i>Study Session</i>	Room 400
		<i>Discussion of General Plan Amendments/development projects</i>	
March 9	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
March 23	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
Monday, April 11	CANCELLED	<i>Study Session</i>	Room 400
		<i>Discussion of Alcohol sales</i>	
Monday, April 11	6:00 p.m.	Regular Meeting	Council Chambers
April 27	6:00 p.m.	Regular Meeting	Council Chambers
Monday, May 2	4:00 p.m.	<i>Study Session</i>	Room 216B
		<i>Review CIP</i>	
Monday, May 2	6:00 p.m.	Regular Meeting	Council Chambers
May 11	4:00 p.m.	<i>Study Session</i>	Room 400
		<i>Discussion of Parks planning strategy (Joint session with Parks Commission)</i>	
May 11	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
May 25	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
Thursday, June 2	5:00 p.m.	<i>Study Session</i>	Room 106E
		<i>Discussion of Jobs/Housing/Transportation Policy Update</i>	
Thursday, June 2	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
Monday, June 6	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
Tuesday, June 7	6:30 p.m.	General Plan/Regular Meeting	Health Bldg. Rm. 202A/B
June 8	CANCELLED	Regular Meeting	Council Chambers
Wednesday, June 15	6:00 p.m.	Regular Meeting	Council Chambers
June 22	6:00 p.m.	Regular Meeting	Council Chambers
July 13	CANCELLED	Regular Meeting	Council Chambers
July 27	6:00 p.m.	Regular Meeting	Council Chambers (801 N. 1 <sup>ST</sup> St.)
August 10	6:00 p.m.	Regular Meeting	Council Chambers (801 N. 1 <sup>ST</sup> St.)
<b>Meetings August 24<sup>th</sup> and subsequent located in Council Chambers on 200 East Santa Clara St.</b>			
August 24	<b>6:30 p.m.</b>	Regular Meeting	Council Chambers
September 14	6:30 p.m.	Regular Meeting	Council Chambers
September 28	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
October 12	6:30 p.m.	Regular Meeting	Council Chambers
October 26	5:00 p.m.	<i>Study Session</i>	Room T-332
		<i>Joint Airport Land Use/Planning Commission</i>	
October 26	6:30 p.m.	Regular Meeting	Council Chambers
November 9	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
November 16	5:00 p.m.	<i>Study Session</i>	Room T-332
		<i>Joint Planning/Parks Commission</i>	
November 16	6:30 p.m.	Regular Meeting	Council Chambers
December 7	6:30 p.m.	Regular Meeting	Rooms W-118/W-119/W-120
December 8	8:00 a.m. - 5:00 p.m.	Annual Retreat	Room T-1572